

Case:10-00137-BKT Doc#:104 Filed:06/20/11 Entered:06/20/11 16:04:04 Desc: Main

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Transmittal Appeal

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF PUERTO RICO

IN RE:

VICKY RODRIGUEZ TORRES

Debtor(s)

VICKY RODRIGUEZ TORRES

Plaintiff

GOVERNMENT DEVELOPMENT BANK OF  
P.R., et

Defendant(s)

CASE NO. 09-10864 BKT

CHAPTER 7

ADVERSARY NO. 10-00137

11-1597(ccc)

RECEIVED & FILED  
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CLERK'S OFFICE  
U.S. DISTRICT COURT  
SAN JUAN, PR

TRANSMITTAL OF RECORD ON APPEAL

Appeal pursuant to 28 USC Section 158(a)(1) filed on  
October 28, 2010 (docket #123). Parties included in the  
appeal:

**Appellant:** Miguel Cuadros & William E. Meléndez  
Menéndez

**Attorney:** William E. Meléndez Menéndez (on their own  
name)  
USDC-PR 226902)

**Appellee:** GOVERNMENT DEVELOPMENT BANK OF P.R, ENID LOPEZ LOPEZ,  
ENID LOPEZ LOPEZ

**Attorney:** Andres Gorbea del Valle  
(USDC-PR 226313)

ORDER APPEALED:

ORDER: The Motion to vacate order filed on 4/11/2011 [Dkt. No. 86] is  
Denied. Because there was no request for a stay pending appeal granted,  
or even requested, the plaintiff's argument is without merit. (RE:  
related document(s) 86 ). Signed on 4/19/2011. (LOPEZ QUINONES, MARISOL)  
(Entered: 04/19/2011)

DESCRIPTION OF MATTER APPEALED:

The Court did not take into account that counsel was  
representing themselves as co-defendants;

The Court did not take into account any type of independent  
certification, or official billing records, or proof of

client disbursements, purportedly made by Defendants on account of this adversary proceeding;.

Counsel was acting without any legal authority under a validly executed and registered contract, as required by 2 L.P.R.A. § 97.

The Court's *sua sponte* condemnation of Debtor's litigation behavior is untimely and was issued without any prior warning.

Court's order lends itself to confusion and the inefficiency resulting from having both the Bankruptcy court and the District Court adjudicating on the same issues, simultaneously.

The Courts' Order encroaches upon the jurisdiction of District Court, improperly influences the outcome of the appellate review, and impinges on matters which already are under the proper consideration of said Appellate Court.

The Court's Order offends Constitutional principles of Due Process of Law, guaranteed by the Vth Amendment to the United States Constitution.

GDB did not meet the requirement that the request for sanctions be made in a separate paper;

GDB did not meet the twenty-one (21) day safe-harbor requirement of serving the paper pursuant to Fed. R. Bankr. P. 7004 before filing it with the Court;

Fed. R. Bankr. P. 9011 provides for the reimbursement of only "reasonable expenses and attorney's fees incurred", which excludes any reimbursement of "unreasonable costs" as prayed for by GDB;

Alternatively, had the Court been acting on its own initiative, it failed to:

- a.describe the specific violative conduct;
- b.enter an order directing Plaintiff to show cause as to why she had not incurred in such violative conduct;

The sanction is excessive, and extends beyond the limitation that it be sufficient to deter repetition of the imputed conduct;

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Fed. R. Bankr. P. 7062 required this Court to stay the effect of its order until fourteen (14) days had passed after its entry;

Plaintiff's filing of a notice of appeal was an act of jurisdictional significance which divested this Court of jurisdiction over the subject matter of the order on appeal, which included the imposition of fees and expenses.

Designation in Appeal filed on: 5/1/11 (#96); submitted on 6/6/11
Counter-designation filed on: NONE FILED
Exhibits Designated and Included <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
If no, please explain:
Transcript Designated and Included <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
If no, please explain: no transcript requested

The following documents are also included:

1. Case docket Summary
2. Amended Opinion and Order to correct Case Caption (#73)
3. Notice of appeal (#90) already included in designation of items
4. Election to appeal to District Court (#91)
5. Copy of BAP transferral to the US District Court, Copy of Appellees' statement and certified copy of the Bankruptcy appellate panel
6. Opposition to Appellants Designation of Record and Issues on Appeal
7. Order Granting Appellants opposition (#102)

Comments: Related appeal in district court Case No. 11-1301 (GAG).

I hereby certify that I have forwarded via mail a copy of the transmittal to the following parties:

William E. Meléndez  
Menéndez  
410 Park Avenue 15th Floor,  
Suite # 1233  
New York, New York 10022

Tel. (718) 725-7387  
We.Melendez@e-Lex.us

Andrés C. Gorbea Del Valle  
PO Box 363128

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San Juan, Puerto Rico  
00936-3128

Tel: (787) 765-4646; Fax:  
(787) 765-4611  
agorbea@salawpr.com

San Juan, Puerto Rico, this 28<sup>th</sup> day of DECEMBER 2010.

s/MARISOL LOPEZ

Deputy Clerk

DISTRICT CLERK- Please return second copy with portion  
below completed

Date: 6/22/11

By: 

USDC Appeal Number: 11-1597(CCC)